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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION
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11 ATARI INTERACTIVE, INC.,

12 Plaintiff,

13 vs.

14 REDBUBBLE, INC.,

15 Defendant.

16 AND RELATED ACTIONS
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Case No. 3:18-cv-03451-JST
[Related to Case Nos. 3:18-cv-03843-JST;
3:18-cv-04115; and 4:18-cv-04949-JST]

Hon. Jon S. Tigar

**NOTICE OF RELATED CASE
PURSUANT TO CIVIL L.R. 3-12;
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED PURSUANT
TO CIVIL L.R. 7-11; DECLARATION
OF ERIC C. LAURITSEN IN
SUPPORT**

Plaintiff Atari Interactive, Inc., (“Atari”) hereby respectfully submits this Notice of Related Case, Pursuant to Civil L.R. 3-12 and the required Administrative Motion to Consider Whether Cases Should be Related, Pursuant to Civil L. R. 7-11.

I. APPLICABLE STANDARD UNDER CIVIL L.R. 3-12

Under Civil Local Rule 3-12, an “action is related to another when: (1) the actions concern substantially the same parties, property, transaction or event; and (2) it appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.” Civil L.R. 3-12(a).

Whenever a party knows or believes that an action may be related to an action that is or was pending in the Northern District, such party “must promptly file in the lowest-numbered case an Administrative Motion to Consider Whether Cases Should be Related, pursuant to Civil L.R. 7-11.” Civil L.R. 3-12(b). That motion must include: “(1) The title and case number of each apparently related case; [and] (2) A brief statement of the relationship of the actions according to the criteria set forth in Civil L.R. 3-12(a).” Civil L.R. 3-12(d).

II. RELATED CASES

On July 2, 2018, Atari filed a Notice of Related Case Pursuant to Civil L.R. 3-12 and Administrative Motion to Consider Whether Cases Should Be Related Pursuant to Civil L.R. 7-11 (“First Motion to Relate Case”). In the First Motion to Relate Case, Atari asked this Court to find *Atari Interactive, Inc. v. Redbubble, Inc.*, Case No. 3:18-cv-03451-JST, filed on June 11, 2018, and *Atari Interactive, Inc. v. Zazzle, Inc.*, Case No. 3:18-cv-03843-SBA,¹ filed on June 27, 2018, related on the basis that both cases involve the same plaintiff and that most of the factual

¹ The case number for *Atari Interactive, Inc. v. Zazzle, Inc.* is now 3:18-cv-03843-JST in light of this Court’s July 10, 2018 order granting the First Motion to Relate Case.

1 allegations, causes of action, legal issues, and legal arguments are the same. On
2 July 10, 2018, this Court granted the First Motion to Relate Case.

3 On July 16, 2018, Atari filed a second Notice of Related Case Pursuant to
4 Civil L.R. 3-12 and Administrative Motion to Consider Whether Cases Should Be
5 Related Pursuant to Civil L.R. 7-11 (“Second Motion to Relate Case”). In the
6 Second Motion to Relate Case, Atari asked this Court to find *Atari Interactive, Inc.*
7 *v. TP APPAREL, LLC dba TeePublic; Brain Buster Enterprises, LLC dba*
8 *TeePublic*, Case No. 3:18-cv-04115-JD,² filed on July 10, 2018, related to *Atari*
9 *Interactive, Inc. v. Redbubble, Inc.* on substantially the same grounds. On July 25,
10 2018, this Court granted the Second Motion to Relate Case.

11 On August 23, 2018, Atari filed a third Notice of Related Case Pursuant to
12 Civil L.R. 3-12 and Administrative Motion to Consider Whether Cases Should Be
13 Related Pursuant to Civil L.R. 7-11 (“Third Motion to Relate Case”). In the Third
14 Motion to Relate Case, Atari asked this Court to find *Atari Interactive, Inc. v.*
15 *SunFrog, LLC*, Case No. 3:18-cv-04949-JSW,³ filed on August 15, 2018, related to
16 *Atari Interactive, Inc. v. Redbubble, Inc.* on substantially the same grounds. On
17 August 29, 2018, this Court granted the Third Motion to Relate Case.

18 Plaintiff now respectfully requests that this Court also find *Atari Interactive,*
19 *Inc. v. Ooshirts, Inc.*, Case No. 3:19-cv-00264-WHO, filed on January 15, 2019 (the
20 “Ooshirts Case”), related to *Atari Interactive, Inc. v. Redbubble, Inc.* for the
21 following reasons:

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23 ² The case number for *Atari Interactive, Inc. v. TP APPAREL, LLC dba TeePublic;*
24 *Brain Buster Enterprises, LLC dba TeePublic* is now 3:18-cv-04115-JST in light of
25 this Court’s order granting the Second Motion to Relate Case.

26 ³ The case number for *Atari Interactive, Inc. v. TP APPAREL, LLC dba TeePublic;*
27 *Brain Buster Enterprises, LLC dba TeePublic* is now 3:18-cv-04949-JST in light of
28 this Court’s order granting the Third Motion to Relate Case.

1 1. Like the previously related cases, the Ooshirts Case involves the same
2 plaintiff.

3 2. Most of the factual allegations, causes of action, legal issues, and legal
4 arguments are the same in the Ooshirts Case and the previously related cases.

5 The Ooshirts Case and the previously related cases all involve federal
6 trademark and copyright infringement claims by Atari against corporate defendants
7 that operate similar business models and provide similarly infringing products.
8 Accordingly, there will be unduly burdensome duplication of labor and expense and
9 a risk of conflicting results if the Ooshirts Case is litigated separately from the
10 previously related cases before a different judge.

11 **III. CONCLUSION**

12 For the foregoing reasons, Plaintiff respectfully requests that this Court deem
13 *Atari Interactive, Inc. v. Redbubble, Inc.*, Case No. 3:18-cv-03451-JST, and *Atari*
14 *Interactive, Inc. v. Ooshirts, Inc.*, Case No. 3:19-cv-00264-WHO, related.

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16 Dated: January 16, 2019

BROWNE GEORGE ROSS LLP

Keith J. Wesley

Eric C. Lauritsen

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19 By: /s/Eric C. Lauritsen

Eric C. Lauritsen

20 Attorneys for Plaintiff Atari Interactive, Inc.
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DECLARATION OF ERIC C. LAURITSEN

I, Eric C. Lauritsen, declare and state as follows:

1. I am an attorney at law, duly admitted to practice before this Court and all courts of the State of California. I am an associate with Browne George Ross LLP, counsel of record for Plaintiff Atari Interactive, Inc. in this matter. I have firsthand, personal knowledge of the facts set forth below and if called as a witness could competently testify thereto.

2. A stipulation relating to Atari's Administrative Motion to Consider Whether Cases Should Be Related could not be obtained because the defendants in the putative related case, *Atari Interactive, Inc. v. Ooshirts, Inc.*, Case No. 3:19-cv-00264-WHO, have not yet appeared.

Executed this 16th day of January 2019, at Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/Eric C. Lauritsen
Eric C. Lauritsen